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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,161	09/30/2005	Charles Telier	0512-1258	3550
<div>465 7590 06/24/2009</div> <div>YOUNG &amp; THOMPSON</div> <div>209 Madison Street</div> <div>Suite 500</div> <div>ALEXANDRIA, VA 22314</div>			<div>EXAMINER</div> <div>GROSS, CHRISTOPHER M</div>	
			<div>ART UNIT</div> <div>1639</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>06/24/2009</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/522,161

**Applicant(s)**

TELLIER ET AL.

**Examiner**

CHRISTOPHER M. GROSS

**Art Unit**

1639

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4,7-15 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7-15,19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Responsive to communications entered 3/31/2009 Claims 1,2,4,7-15,19 are pending. Claims 1,2,4,7-15,19 are under consideration.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/31/2009 has been entered.

### ***Priority***

The present application filed was 9/30/2005 and is a 371 of PCT/FR03/02318 filed 07/22/2003.

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d) to French application 02/09456 (referred to as '456) filed 07/25/2002. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Applicant has perfected priority to '456 by filing a certified and verified English translation of '456 on 1/9/2008.

### **Response to Declarations**

The declarations under 37 CFR 1.132 entered 3/31/2009 and under 37 CFR 1.131 entered 1/9/2008 are insufficient to overcome the rejections of claims 1,2,4,7-15,19 under 35 USC 102 (f) and 35 USC 103(a) as set forth in the last Office action because:

(a) While the 37 CFR 1.132 declaration entered 3/31/2009 by Bruno Bujoli provides evidence that Pascal Janvier and Isa Benitz did not conceive the presently claimed subject matter, it does not indicate whether the other authors of the Envelope Soleau (verified English translation entered 1/9/2008) made contributions to reduction to practice. In other words, no indication is given whether Pascal Janvier and Isa Benitz were merely working under the direction of the co-inventors of the claimed subject matter

(b) The 37 CFR 1.132 declaration entered 3/31/2009 was only signed by Bruno Bujoli, rather than the complete inventive entity of claimed subject matter, including CHARLES TELLIER, MURIEL PIPELIER, DIDIER DUBREUIL and DANIEL TALHAM .

(c) Similarly, the 37 CFR 1.131 entered 1/9/2008 was not signed by CHARLES TELLIER, MURIEL PIPELIER, DIDIER DUBREUIL and DANIEL TALHAM. See MPEP 715.04.

***Maintained Claim Rejection(s) – 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(f) he did not himself invent the subject matter sought to be patented.

Claims 1,2,4,7-15,19 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter for the reasons set forth in the office action mailed 12/31/2008.

*Response to Arguments*

On p 2-3 of applicant's remarks entered 3/31/2009, applicant asserts the 37 CFR 1.132 declaration provides evidence that the currently claimed subject matter was not invented by Pascal Janvier and Isa Benitz. However, for the reasons discussed above, said declaration is insufficient with regard to reduction to practice.

***Maintained Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 7-15, 2 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agrawal et al**, (WO 2003/046508 A2) in view of **Petruska, et al**, (Thin Solid Films, 327-329 (1998) 131-135, Elsevier Science) and **Lockhart et al**, (US Patent 5,556,752) , and further in view of **Gagna et al**, US Patent 6,936,461 (Date of Patent 30 August 2005) for the reasons set forth in the office action mailed 12/31/2008.

***Response to Arguments***

On p 2-3 of applicant's remarks entered 3/31/2009, applicant asserts the 37 CFR 1.131 declaration entered 1/9/2008 provides evidence the claimed subject matter was conceived and reduced to practice prior to the 102(e) dates of Agrawal et al and Gagna et al. However, for the reasons discussed above, said declaration is insufficient in not

being signed by all the co-inventors of the subject matter claimed. The date for prior art is 7/25/2002, after the 102(e) dates of Agrawal et al and Gagna et al.

This is a RCE of applicant's earlier Application No. 10/522,161 All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER M. GROSS whose telephone number is (571)272-4446. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on 571 272 0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher M Gross  
Examiner  
Art Unit 1639

cg

/ Christopher S. F. Low /  
Supervisory Patent Examiner, Art Unit 1639